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GOP HOUSE EYES 'RIFLE SHOT' EFFORTS TO REVISE KEY ENVIRONMENTAL LAWS Inside EPA Weekly Report

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A key House GOP staffer says lawmakers are eying options for "rifle shot" piecemeal legislative efforts in the 113th Congress to revise major environmental statutes including the Clean Air Act and Clean Water Act to ease regulatory burdens, as observers say comprehensive overhaul of energy and environmental laws is unlikely next year.

The incremental approach to amending environmental laws that Republicans have long sought to overhaul will be coupled with ongoing oversight by House committees of EPA policies that GOP lawmakers believe are hindering industries, primarily oil and gas production, said House Energy and Commerce Committee general counsel Michael Bloomquist during a Nov. 13 American Law Institute Continuing Legal Education (ALI CLE) webinar.

Following the elections, Republicans held on to the majority in the House and are likely to continue their series of hearings over the last two years challenging a slew of EPA policies. For example, the House energy panel and its subcommittees have held a series of hearings investigating what it sees as EPA's "war on coal."

Democrats however expanded their majority in the Senate, which further undermines prospects for approving House GOP legislation to limit or scrap key EPA air, water, waste and other policies. The divided Congress could also hinder the potential for both chambers to agree on comprehensive changes to years-old statutes.

Instead, Bloomquist suggested the House GOP strategy will be the rifle shot approach of small changes to laws aimed primarily at easing regulatory requirements, for example by streamlining planning mandates.

Rep. Ed Whitfield (R-KY), chairman of the Energy and Commerce Committee's power panel, is slated to hold a Nov. 29 forum to discuss Clean Air Act -- the third of the forums, which are seen as laying the groundwork for potential fixes to the air law next year. Whitfield has cautioned that states and EPA would have to agree on the scope of changes to the air law for it to be a viable option, which might limit prospects for a massive air law overhaul.

Some of the air law planning mandates that could be ripe for the House GOP to target include long-running state complaints about the state implementation plan (SIP) process. Under the air law, states must craft SIPs to detail how they intend to meet EPA air standards, but the process has long drawn criticism for the time and resources required.

The House Transportation and Infrastructure Committee is likely also considering options to revise aspects of the Clean Water Act, while the Natural Resources Committee could adopt the same approach to examining ways of streamlining regulatory requirements under the National Environmental Policy Act, Bloomquist said.

During the ALI CLE webinar, Bloomquist also said that House Republicans intend to conduct aggressive oversight activities into Obama administration policies, including extensive background-gathering and hosting hearings to highlight key issues, aimed at tempering what he referred to as "mission creep" by executive agencies, including EPA, where the agency has sought to expand regulations in a way that could hinder energy production.

A priority of the House GOP going into the next Congress starting in January is ensuring that EPA and other federal agencies do not expand federal oversight powers with regard to hydraulic fracturing and other aspects of oil and gas production, which have always been regulated at the state level, Bloomquist said.

"Our view is that the Obama administration wants to assert federal control of oil and gas," he said, reiterating the longstanding Republican and industry viewpoint that such regulations should be handled by states because they are

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better positioned to tailor their rules to fit local geology. However, Bloomquist added that keeping oil and gas regulation at the state level also represents "good politics" by providing an opportunity for Republican lawmakers to demonstrate that they favor some environmental regulations of energy activities.

During the ALI CLE webinar, Bloomquist also referenced an Energy & Commerce hearing held last October on legislation seeking to bar EPA from tightening its coarse particulate matter ambient air standard, saying the hearing successfully secured a public commitment from top agency officials that the agency was not seeking to regulate farm dust.

Such hearings are used to "lock in the agency or discourage" a specific policy, Bloomquist said, adding that climate rules and EPA's efforts to exercise its "imminent and substantial endangerment" authority under the Safe Drinking Water Act (SDWA) to enforce against natural gas operators would be likely topics of hearings next year.

EPA, which is barred from directly regulating hydraulic fracturing under SDWA, in a novel use of its emergency authority under the drinking water law issued a Dec. 7, 2010, order to Range Resources, a Texas drilling company whose fracking operations the agency alleged had contaminated drinking water supplies.

The agency later withdrew the order after the company mounted a constitutional challenge, however, prompting GOP criticisms that EPA had acted prematurely in issuing taking emergency enforcement action.

In addition to the Range Resources case, Bloomquist added that House lawmakers could also examine EPA's actions in fracking-related groundwater investigations in Dimock Township, PA, and Pavillion, WY, where the agency used existing Superfund authority to investigate suspected contamination and EPA indicated drilling might be to blame.

"Those are all ways the House can be playing defense," amidst continuing to host hearings that highlight the effectiveness of state regulations at governing oil and gas operations, Bloomquist said. -- Bridget DiCosmo

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EPA invites public to submit data on fracking Wyoming Business Report, The

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November 14, 2012 --

WASHINGTON D.C. — According to a notice posted last week by the Environmental Protection Agency in the Federal Register, the public is invited to submit data and scientific literature to inform the EPA's research on the potential impacts of hydraulic fracturing on drinking water resources.

While fracking has been used by the oil and gas industry for decades, the recent shale gas boom has led to the practice being more wide spread and more controversial. Hard data tracking before and after conditions of water wells, as well as the potential impact of fracking, has been hard to find.

In Pavillion, fracking was blamed by some for the condition of the drinking water. Test results by the EPA and U.S. Geological Service yielded conflicting results, with a resolution still not in sight.

In an effort to expand its informational base, the EPA will accept data and scientific literature until April 30, 2013. Online submissions are preferred: follow the instructions at <http://www.regulations.gov>, and identify your submission with Docket ID No. EPA-HQ-ORD-2010-0674.

While EPA conducts a thorough literature search, there may be studies or other primary technical sources that are not available through the open literature. EPA would appreciate receiving information from the public to help inform current and future research and ensure a robust record of scientific information. Consistent with our commitment to using the highest quality information, EPA prefers information that has been peer-reviewed. Interested persons may provide scientific analyses, studies and other pertinent scientific information. EPA will consider all submissions but will give preference to peer reviewed data and literature sources.